

123 FERC ¶ 61,177
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Mid-Continent Area Power Pool

Docket Nos. OA07-51-000
OA07-51-001

ORDER ON COMPLIANCE FILING

(Issued May 16, 2008)

1. On July 13, 2007, as amended on November 30, 2007, pursuant to section 206 of the Federal Power Act (FPA),¹ Mid-Continent Area Power Pool (MAPP), on behalf of its Regional Transmission Committee (RTC) members, submitted its compliance filing as required by Order No. 890.² In this order, we will accept MAPP's July 13 filing and require a further compliance filing, as discussed below.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* Open Access Transmission Tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems, and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity.

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved as Independent System Operators (ISOs) or Regional Transmission Organizations (RTOs), and whose transmission facilities are not under the control of an ISO or RTO,

¹ 16 U.S.C. § 824e (2000 & Supp. V 2005).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007).

were directed to submit, within 120 days from publication of Order No. 890 in the *Federal Register* (i.e., July 13, 2007), section 206 compliance filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890.³

4. On April 19, 2007, MAPP filed a request on behalf of its RTC members to retain certain provisions of its Schedule F⁴ that vary from the non-rate terms and conditions of the *pro forma* OATT, as modified in Order No. 890. The Commission accepted, in part, and rejected, in part, MAPP's filing, requiring MAPP to submit an annual informational filing and file a mechanism through which the transmission provider will identify non-offending transmission customers and the method by which it will distribute unreserved use penalty revenues to those customers in compliance with Order No. 890.⁵

II. Compliance Filings

A. MAPP's July 13 Filing

5. In its July 13, 2007 filing, MAPP filed revisions to its OATT to implement the revised non-rate terms and conditions of Order No. 890, as well as to comply with the directives of Order No. 676.⁶ MAPP states that it revised a number of provisions, including: (1) addition of definitions for the terms "affiliate," "non-firm sale," and "pre-confirmed application;" (2) revisions to MAPP's Open Access Same-Time Information System (OASIS) provisions to require MAPP to post on its website the appropriate rules, standards, and practices associated with transmission service; (3) addition of MAPP's new creditworthiness procedures; (4) revisions related to the priority of pre-confirmed applications; (5) references to the planning processes of MAPP's individual RTC Members, which will be contained in each public utility member's Attachment K filing;

³ The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

⁴ MAPP Schedule F is a discounted regional limited-services tariff that provides for regional coordination transmission service at non-pancaked rates in the MAPP region; it overlays the MAPP members' individual tariffs.

⁵ *See Mid-Continent Area Power Pool*, 120 FERC ¶ 61,041 (2007).

⁶ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676, 71 Fed. Reg. 26,199 (May 4, 2006), FERC Stats. & Regs. ¶ 31,216, 115 FERC ¶ 61,102, *reh'g denied*, Order No. 676-A, 116 FERC ¶ 61,255 (2006), *amended*, Order No. 676-B, 119 FERC ¶ 61,049 (April 19, 2007) (Order No. 676).

(6) implementation of penalties for failure to meet study deadlines; (7) revisions to the procedures for assignment or transfer of service; (8) addition of non-generation resources to Reactive Supply and Voltage Control (Schedule 2) provisions; (9) replacement of references to “transmission capacity” throughout Schedule F with reference to “transfer capability;” and (10) conforming changes throughout MAPP’s OATT to accommodate these reforms.

6. MAPP states that although its tariff changes incorporate Order No. 890’s requirement to provide that pre-confirmed requests be given an elevated priority, MAPP initially will implement this requirement manually until an automated process can be fully developed and tested. MAPP states that the reservation process will necessarily be imperfect due to the time-lag needed to manually perform the process, and as a result, a MAPP customer that submits a non-pre-confirmed request may be preempted by a competing, pre-confirmed request, notwithstanding the fact that the customer has already confirmed its request.

7. In its July 13 filing, MAPP also requested an extension of time to comply with the Commission’s Order No. 890 requirements concerning the creation of a simultaneous submission window. MAPP states that it did not have procedures ready to implement a simultaneous submission window, whether through an automated or manual process. The Commission granted the extension until November 9, 2007. On November 8, 2007, MAPP requested additional time to complete necessary software modifications to implement its simultaneous submission window. The Commission granted the extension until November 30, 2007.

B. MAPP’s November 30 Filing

8. In its November 30 filing, MAPP states that its software vendor completed development and testing of an automated simultaneous submission window. MAPP states that it will begin applying the simultaneous submission window procedure on November 30, 2007.

9. MAPP requests waiver of the Commission’s prior notice requirements to permit an effective date of the date of filing of November 30, 2007. MAPP states that with the waiver, the effective date will coincide with MAPP’s implementation of the simultaneous submission window and with the end of the extension of time granted to MAPP by the Commission.

III. Notice of Filing and Responsive Pleadings

10. Notice of MAPP’s July 13 filing was published in the *Federal Register*, 72 Fed. Reg. 41,727 (2007), with interventions and protests due on or before August 3, 2007. Notice of MAPP’s November 30 filing was published in the *Federal Register*, 72 Fed. Reg. 71,132 (2007), with interventions and protests due on or before December 21, 2007.

On December 21, 2007, Powerex Corp. (Powerex) filed a motion to intervene and protest, which they mistakenly filed in Docket No. OA08-51-000. On January 4, 2008, Powerex refiled their motion to intervene and protest in Docket No. OA07-51-001, noting their error and requesting substitution for their earlier filed motion. On January 22, 2008, MAPP filed an answer.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), a timely, unopposed motion to intervene would serve to make Powerex a party to this proceeding. MAPP argues in its answer that Powerex's motion to intervene and protest should be denied as untimely, since Powerex did not show good cause for late filing and did not request a waiver. MAPP also argues that Powerex's filing raises issues that should be rejected as an impermissible attempt at rehearing and collateral attack on Order No. 890. The Commission will accept Powerex's motion to intervene and protest given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay. The Commission finds that Powerex's filing is not an impermissible attempt at rehearing and collateral attack on Order No. 890.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MAPP's answer because it has provided information that assisted us in our decision-making process.

B. Order No. 890 Compliance

13. For the reasons discussed below, we will accept MAPP's July 13 and November 30 filings, but require a further compliance filing on MAPP's simultaneous submission window procedures.

1. Clustering

a. MAPP's Proposal

14. In its July 13 filing, MAPP notes that it is not proposing to incorporate procedures to offer clustering of transmission service requests for the purposes of conducting system impact studies. MAPP argues that because there is no obligation to build transmission under MAPP's Schedule F, and MAPP's transmission service is evaluated through an automated process, clustering under Schedule F is inapplicable. MAPP asserts that clustering provisions could only be offered by individual MAPP *members* under their individual transmission tariffs.

b. Commission Determination

15. In Order No. 890, the Commission did not generally require transmission providers to study transmission requests in a cluster, though it did encourage transmission providers to cluster studies when it is reasonable to do so. The Commission also explicitly required transmission providers to consider clustering studies if the customers involved request a cluster and the transmission provider can reasonably accommodate the request. In addition, the Commission gave each transmission provider the discretion to develop the clustering procedures it will use because the transmission provider is in the best position to determine the clustering procedures that it can accommodate and that will prevent a customer from strategically participating in clusters to avoid costs for needed transmission system upgrades.

16. We find that MAPP's proposal to not cluster transmission requests is reasonable and consistent with the revised *pro forma* OATT. MAPP Schedule F is a limited-services tariff with no long-term firm product, wherein customers can reserve firm transmission service for periods of one month, up to 12 consecutive months, without any obligation to build facilities to accommodate requests for service. Under Schedule F, a transmission provider is a transmission owning member of the RTC that owns, controls, or operates a portion of the MAPP Transmission System.⁷ Under this framework, clustering provisions may be offered by individual MAPP transmission providers under their individual transmission tariffs to meet their obligations under Order No. 890.

17. Further, transmission service requests will be evaluated using the MAPP Regional Request Evaluation Process, which performs an online system impact study. The MAPP Regional Request Evaluation Process employs current transmission models and other data to determine the ability of the transmission system to accommodate a transmission service request based on a detailed representation of the source and the sink. This automated process is designed to produce results similar to a detailed system impact study and thus reduce the need to conduct any further studies.⁸ Thus, based on the

⁷ As defined in Section 1.47 of Exhibit C to MAPP's Schedule F, the MAPP Transmission System is defined as the composite of all contiguous networked, synchronously operated 115 kV and above transmission facilities owned or controlled by RTC members, provided that such transmission facilities of the RTC members shall be (i) located within the shaded North Central geographic area designated in the map in Exhibit F of the Restated Agreement, (ii) directly interconnected with transmission facilities located in the area specified in subsection (i), or (iii) interconnected with facilities located in the area specified in subsection (i) through the transmission facilities of another RTC member or RTC members.

⁸ See Section 2.8.1 of MAPP's Policies and Procedures for Transmission Operations.

specific circumstances surrounding MAPP's Schedule F, we find clustering transmission requests under MAPP's Schedule F unnecessary and inapplicable, and, therefore, we find MAPP's proposal consistent with the revised *pro forma* OATT.

18. Nevertheless, the absence of clustering provisions in MAPP's OATT should not dissuade MAPP participants from consideration of all long-term planning options in their coordinated regional planning efforts.

2. Simultaneous Submission Window

19. In its November 30, 2007 filing, MAPP states that it completed the development and testing of an automated simultaneous submission window process, as promised in its July 13 filing, and began applying the simultaneous submission window procedure on November 30, 2007.⁹ MAPP states that it has determined that the firm point-to-point transmission services offered under Schedule F (daily, weekly, and monthly services) will be subject to processing under the simultaneous submission window.¹⁰ MAPP proposes revisions to Schedule F to provide a simultaneous submission window that is five minutes in duration.

a. Lottery versus Pro Rata Approach

i. MAPP's Proposal

20. MAPP states that it has developed a lottery for allocating capacity if sufficient capacity is not available to meet all requests submitted within the simultaneous submission window. MAPP states that after assigning priority to requests submitted within the simultaneous submission window based upon duration, pre-confirmed status and price, MAPP will allocate capacity among any remaining competing requests with the same queue-time according to a lottery process. MAPP states that it will determine, through a software-generated random process, the order in which to process remaining competing requests within the simultaneous submission window.

ii. Protests

21. Powerex asserts that MAPP does not explain why its proposed lottery allocation procedure is an appropriate method to allocate capacity if sufficient capacity is not

⁹ A simultaneous submission window is defined in section 1.44 of MAPP's proposed tariff as "[a] period of time within which Firm Point-to-Point Transmission Service requests received by the Transmission Provider will be deemed to have been submitted simultaneously."

¹⁰ MAPP does not offer network integration transmission service.

available to meet all requests submitted within the simultaneous submission window after first assigning priority based upon duration, pre-confirmed status, and price.

22. Powerex states that a *pro rata* approach to allocation may be a more fair and appropriate mechanism and may be more consistent with the Commission's mandate for open access transmission service. Powerex requests the Commission to direct MAPP to implement a *pro rata* method or in the alternative, develop another non-discriminatory allocation approach for requests of otherwise equivalent priority that fall within a simultaneous submission window. Alternatively, Powerex states that MAPP should demonstrate how its use of a lottery method is consistent with or superior to *pro rata* allocation, and is not otherwise discriminatory or unduly preferential.

23. Powerex asserts that the Commission has generally frowned upon the use of lotteries to allocate capacity when demand for service exceeds available capacity except in the case of initial service requests for newly-opened systems or new services.¹¹ Powerex further notes that in cases where lottery procedures have been approved, the Commission has usually required the lottery to be conducted by an independent accounting firm and that the administrative rules governing the lottery will be understood by all potential customers prior to the lottery drawing,¹² in order to ensure the lottery is implemented in a fair and even-handed manner. Powerex argues that the Commission has rejected lottery proposals that did not meet this standard.¹³

24. Lastly, Powerex states that the lottery mechanism will benefit customers with affiliates and/or subsidiaries who can increase their odds of being selected the winner. Powerex requests that the Commission should consider placing restrictions on affiliated companies from reassigning capacity won in a simultaneous submission window lottery to another affiliate to discourage this type of behavior.

iii. MAPP's Answer

25. MAPP argues that the lottery allocation method is the most appropriate simultaneous submission window allocation procedure for the MAPP system and mitigates the operational difficulties presented by other approaches, such as the *pro rata* approach advocated by Powerex. MAPP explains that it uses an Available Flowgate

¹¹ Powerex at 8 (citing *Pacific Gas Transmission Co.*, 40 FERC ¶ 61,193, at 61,618 (1987); *Public Service Company of Indiana, Inc.*, 51 FERC ¶61,367 (1990)).

¹² Powerex at 8 (citing *Pelican Interstate Gas System*, 48 FERC ¶ 61,171, at 61,634 (1989)).

¹³ Powerex at 8 (citing, *e.g.*, *West Texas Gathering Co.*, 45 FERC ¶ 61,483, at 62,507 (1988)).

Capacity (AFC) based methodology for evaluating transfer capability, and each transmission service request impacts multiple paths in a flow-based methodology, not just a single path as in a point-to-point Available Transmission Capability (ATC) methodology. As a result, MAPP explains, AFC cannot be easily divided into separate, proportionate shares for multiple customers in a tie-breaker situation.

26. In regard to Powerex's suggestion that the lottery mechanism could benefit customers with affiliates and/or subsidiaries who can increase their odds of being selected the winner, MAPP notes that Powerex does not explain how this might occur.¹⁴ In addition, MAPP states that it is highly unlikely that customers with affiliates and/or subsidiaries customers could correctly guess ahead of time when there will be a tie that triggers the simultaneous submission window, while concurrently and *correctly* guessing whether there will be enough capacity to grant the requests and coordinate their own requests for service accordingly. In addition, MAPP states that this is a problem that could occur in Powerex's preferred *pro rata* methodology. Specifically, such customers could submit multiple requests with the intent of reassigning their *pro rata* shares to a single affiliate. MAPP also notes that as the Commission established in Order No. 890 to deter frivolous requests,¹⁵ customers that want service will submit pre-confirmed requests, in which case they are obligated to take such service request.¹⁶

27. Additionally, MAPP addresses Powerex's claim that MAPP's allocation procedure fails the Commission's standard for lotteries because it does not use an independent party to witness and verify that the lottery was conducted in a fair and even-handed manner. MAPP states that it simply would not be feasible to use an independent auditor to witness and verify that each lottery associated is conducted in a fair and even-handed manner every single time it is employed. MAPP further states that in addition to being extremely burdensome, having an independent auditor verify the results would greatly delay the processing of the transmission service request queue.

28. MAPP further explains that while the Commission has held that lottery procedures must be implemented in a fair manner and in a way that does not result in undue discrimination, it does not require the use of an independent auditor to achieve that result. MAPP also responds that at the heart of the Commission's concern in *Pacific Gas Transmission Company* and *Public Service Commission of Indiana, Inc.*, was the possibility that the transmission provider might favor its affiliate in awarding capacity on its system. In contrast to the providers in those cases, MAPP notes that it has no affiliates. MAPP further notes that while one might argue that MAPP could favor its

¹⁴ MAPP's Answer at 8.

¹⁵ Order No. 890 at P 1401.

¹⁶ *Id.* at P 1404.

members over non-members, the lottery allocation software is designed so that all customers tied for capacity in the SSW are treated equally.

iv. Commission Determination

29. In Order No. 890-A, the Commission stated that while transmission providers could adopt a single, one-size-fits-all approach, such as a mandatory *pro rata* distribution methodology, this approach may not produce the best result in all cases. The Commission reiterated its finding that transmission providers are in the best position to determine which allocation mechanism works best for their systems.¹⁷ In this proceeding, Powerex has not demonstrated that MAPP's proposed lottery methodology is an unreasonable implementation of Order No. 890. MAPP is under no obligation to demonstrate that its proposed lottery is superior to Powerex's preferred *pro rata* methodology.¹⁸ We find that MAPP's use of a lottery to allocate capacity is reasonable, and complies with the requirements of Order No. 890.

30. We find that the lottery procedure proposed by MAPP provides a reasonable method of capacity allocation that accommodates MAPP's operating characteristics. MAPP uses an AFC-based methodology for evaluating transfer capability¹⁹ and, thus, each transmission service request impacts multiple paths in the flow-based methodology, rather than just a single path as in a point-to-point ATC methodology. As a result, available capability cannot be easily divided into separate, proportionate shares for multiple customers in a tie-breaker situation. A lottery addresses this problem, since it does not require the division of transfer capability into proportionate shares.

31. We also find that MAPP's proposed lottery procedure is fair, and gives all customers whose bids were submitted within the five minute window an equal opportunity for the capacity at issue. The lottery procedure proposed by MAPP occurs only after a tie of equal priority occurs in transmission service requests. Under MAPP's proposed lottery procedure, all customers with identical duration, pre-confirmation status and price status will be treated on an equal basis. As MAPP explains in its answer, when a tie occurs, a customer from the set of customers tied for capacity will be selected at random and its request processed. This procedure will be repeated until all requests have

¹⁷ Order No. 890-A at P 806.

¹⁸ The Commission rejected a similar request from Powerex for a *pro rata* methodology in another Order No. 890 compliance proceeding. In that matter, the Commission determined that the allocation proposal from the transmission providers was reasonable and that transmission providers were in the best position to determine the appropriate allocation process. *See Avista Corp.*, 122 FERC ¶ 61,204 (2008).

¹⁹ MAPP's Answer at 6.

been processed. In this manner, the lottery procedure will effectively ensure that in a tie-breaker situation, all customers whose bids were submitted within the five minute window will have an equal opportunity for the capacity, regardless of financial resources and sophistication, which was a concern of the Commission in Order No. 890-A that led to its adoption of the simultaneous submission window requirement.²⁰

32. We also disagree that the lottery mechanism will unfairly advantage customers with affiliates and/or subsidiaries. It would be difficult for customers and their affiliates to be able to determine when a lottery would occur prior to making multiple bids. Although affiliated customers could attempt to win the lottery by submitting multiple transmission service requests, we would not expect them to submit requests on a pre-confirmed basis. Competing customers can therefore obtain priority over such coordinated requests by submitting their own requests on a pre-confirmed basis.

33. Finally, Powerex argues that if the Commission accepts the use of a lottery, we should require further customer protections, including the use of an independent accounting firm to conduct the lottery and a posting of the administrative rules governing the lottery for all potential customers. In Order No. 890, the Commission gave discretion to a transmission provider to determine how its simultaneous submission window will be implemented. Because of the automated nature of MAPP's lottery system, there is no need for an independent auditor. Under its proposal, MAPP's lottery allocation software is designed so that all customers tied for capacity in the simultaneous submission window are treated equally. The processing of transmission service requests is transparent under our open access rules and transmission customers that observe preferential treatment through OASIS may bring such issues to the Commission via a section 206 proceeding. In addition, such parties can also contact the Commission's hotline and dispute resolution services. Therefore, we will not require the use of an independent auditor to administer MAPP's lottery.

34. As for Powerex's request that MAPP post the administrative rules governing the lottery, the Commission notes that under Order No. 890, MAPP is required to post all "rules, standards, and practices that relate to transmission service" on its public website and provide a link to this information on OASIS.²¹ Accordingly, we expect that all rules, standards, and practices relating to the lottery will be reduced to writing and included in MAPP's Policies and Procedures.

²⁰ Order No. 890-A at P 803.

²¹ Order No. 890 at P 1652.

b. Lack of Tariff Sheets**i. MAPP's Proposal**

35. MAPP states that it filed tariff sheets amending Schedule F in order to implement its simultaneous submission window procedures. Included in MAPP's tariff is a definition of, and a reference to, a five-minute window for the processing of the simultaneous submission window.

ii. Protest

36. Powerex states that MAPP has not included the simultaneous submission window provisions in its tariff. Rather, Powerex notes, the bulk of the provisions implementing the simultaneous submission window are contained in MAPP's business practices. Powerex asserts that MAPP has provided scant detail on how the simultaneous submission window lottery will operate and that, since none of the lottery procedures were included in its tariff, the provisions can be modified at any time without Commission approval.

iii. MAPP's Answer

37. MAPP notes that in Order No. 890, the Commission did not require that transmission providers include in their tariffs the method for allocating capacity for customers in the simultaneous submission window when there was not enough capacity. However, MAPP notes, in Order No. 890-A, the Commission clarified that the transmission provider must include the allocation methodology in its tariff.²² Therefore, MAPP commits to submit in a compliance filing the revised tariff sheets setting forth the lottery allocation methodology in the following terms, which will be added to section 13.2(i) of Schedule F:

In the event there is insufficient capacity to grant all unprocessed simultaneously submitted transmission service requests received within the simultaneous submission window, the order of processing such requests will be determined pursuant to an automated lottery procedure. The lottery procedure will not distinguish among members and non-members of MAPP for purposes of selecting transmission customers or service requests to be processed and will be performed in a not unduly discriminatory or preferential manner.

²² MAPP's Answer at 5 (citing Order No. 890-A at P 806).

iv. Commission Determination

38. We find that the level of detail in MAPP's proposed tariff language describing the lottery procedure, with the modifications ordered below, is adequate. MAPP's Policies and Procedures, which are available on OASIS to all transmission customers, provide additional detail for customers to follow and to provide transparency to the process. Further, we find that, to the extent MAPP develops any additional rules, standards, or practices regarding its simultaneous submission window that significantly affect transmission service, MAPP must incorporate those rules, standards, and practices into its OATT.²³

39. Nonetheless, MAPP's proposed tariff language does not clarify that the lottery applies only to allocation of capacity among remaining competing requests with the same queue position after priority has been assigned based on duration, pre-confirmed status, and price. In MAPP's November 30 transmittal letter describing the simultaneous submission window, it states that it developed a method for allocating capacity if sufficient capacity is not available to meet all requests submitted within the simultaneous submission window:

After assigning priority to requests submitted within the SSW [simultaneous submission window] based upon duration, pre-confirmed status and price, MAPP will allocate capacity among any remaining competing requests with the same queue time according to a lottery process.²⁴

MAPP must incorporate this clarification into its proposed simultaneous submission window tariff provisions to ensure that reservation priorities under Schedule F are consistent with the *pro forma* OATT. Therefore, we direct MAPP to file, within 30 days of the date of this order, a further compliance filing that incorporates its proposed revisions to section 13.2(i), with the modifications discussed above.

c. Simultaneous Submission Window Effective Date

i. MAPP's Proposal

40. MAPP requested an effective date of November 30, 2007 for its simultaneous submission window procedures.

²³ Order No. 890 at P 1649.

²⁴ MAPP's November 30 transmission letter at 4.

ii. Protest

41. Powerex states that although MAPP requests an effective date coincident with the date of its filing (i.e., November 30, 2007) for its proposed simultaneous submission window provisions, MAPP did not seek a waiver of the Commission's 60-day notice period, required under Section 205(d) of the FPA²⁵ and Section 35.3(a) of the Commission's regulations.²⁶ Powerex notes the Commission has previously expressed concern about public utilities submitting rate filings on or after the day service commences.²⁷ Powerex states that MAPP has made no showing of good cause here and fails to offer any explanation of why it could have not filed its simultaneous submission window provisions before commencing service under those provisions.

iii. MAPP's Answer

42. MAPP requests that the Commission permit an effective date of November 30, 2007 for the simultaneous submission window, noting that the Commission granted MAPP until November 30, 2007 to implement the simultaneous submission window. Accordingly, MAPP argues that the Commission should permit MAPP's compliance filing to become effective on the date it was required to submit the compliance filing. MAPP explains that the requested effective date will ensure that the effective date coincides with MAPP's implementation of the simultaneous submission window and with the end of the extension-of-time granted to MAPP. MAPP refutes Powerex's claim that a waiver of the Commission's 60-day notice period was necessary since MAPP's filing is submitted under section 206 of the FPA, and not a voluntary proposal submitted under section 205.

iv. Commission Determination

43. Powerex contends that MAPP did not request waiver of the Commission's 60-day notice period. However, as MAPP clarifies, its compliance filing was submitted under section 206 of the FPA and not for the filing of new rates or services under section 205 of the FPA. We agree. Thus, the 60-day notice period is inapplicable to MAPP's filing.

²⁵ 16 U.S.C. § 824d(d) (2006 Supp.).

²⁶ 18 C.F.R. § 35.3(a) (2007).

²⁷ Powerex at 4 (citing, e.g., *Central Hudson Gas & Electric Co.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992) ("The requirement that utilities file rates for jurisdictional service prior to the commencement of service is long-standing."); *Nevada Power Co.*, 55 FERC ¶ 61,379, at n.14 (1991); *Portland General Exchange, Inc.*, 51 FERC ¶ 61,108, at n.67, *order granting clarification*, 51 FERC ¶ 61,379, *order accepting compliance filing*, 53 FERC ¶ 61,216 (1990)).

44. Therefore, we will accept MAPP's November 30 filing, implementing the simultaneous submission window, to be effective November 30, 2007.

C. Order No. 676 Compliance

1. MAPP's Proposal

45. To comply with Order No. 676, MAPP states that it has included standards promulgated by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board in section 4.2 of MAPP's Schedule F. MAPP notes that in Order No. 676, the Commission directed all public utilities to modify their tariffs to incorporate numerous WEQ standards, such as Business Practices for Open Access Same-time Information Systems, Business Practices for OASIS Standards and Communications Protocols, OASIS Data Dictionary, Coordinate Interchange, Area Control Error Equation Special Cases Standards, Manual Time Error Correction and Inadvertent Interchange Payback. MAPP requests that its proposed Order No. 676-related tariff revisions be accepted to become effective July 1, 2006, consistent with Order No. 676.

2. Commission Determination

46. We find that the proposed tariff revisions comply with the directives of Order No. 676. Therefore, the Commission accepts MAPP's Order No. 676-related tariff revisions effective July 1, 2006, as requested.

The Commission orders:

(A) MAPP's July 13 filing is hereby accepted, as modified, effective July 13, 2007, as discussed in the body of this order.

(B) MAPP's tariff revisions submitted in its July 13 filing to comply with Order No. 676 are also accepted, effective July 1, 2006, as discussed in the body of this order.

(C) MAPP's tariff revisions submitted in its November 30 filing to implement a simultaneous submission window are accepted, effective November 30, 2007, as discussed in the body of this order.

(D) MAPP is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.